



Appeal Decision

Site visit made on 1 December 2020

by S A Hanson BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2021

Appeal Ref: APP/C4615/C/20/3257822

55A Vicarage Road, Halesowen, Birmingham B62 8HU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr. Harjit Singh (Guru Midland Motors Ltd) against an enforcement notice issued by Dudley Metropolitan Borough Council.
 - The enforcement notice was issued on 9 July 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission and within the last 10 years, the change of use of the Land to a garage for the repair and maintenance of vehicles.
 - The requirements of the notice are: i) Cease the use of the Land for the repair and maintenance of vehicles; and ii) Remove from the Land all vehicles, vehicle parts, machinery, rubble, equipment and debris accumulated when taking step (i) above.
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Ground (a) and the deemed planning permission.

Main Issue

2. This is the effect of the change of use of the land on the living conditions of the occupants of neighbouring residential properties, particularly with regard to noise and disturbance.

Reasons

3. The appeal site comprises a large workshop building and a forecourt area to the front, currently occupied by Guru Midland Motors Ltd and operating as a vehicle repair garage. The site is in a predominantly residential area, situated between two residential properties, albeit one with an established joinery business. The building is set back approximately 29 metres from its highway frontage onto Vicarage Road. The site adjoins residential properties to the rear, and opposite the entrance to the site are further residential properties.
4. The workshop building has a large floor area which undoubtedly means that several vehicles could be repaired at the same time, increasing the level of

noise generated by the use of the site. Indeed, at the time of my site visit, I observed several vehicles within the workshop building, and that most of the remaining floor area was given over to the storage of tools, machinery and vehicle body parts.

5. A vehicle repair garage generates significant levels of noise due to the nature of the materials and the tools used in the various processes. In addition to noise generated by the process of repairing vehicles, the Council's statement also highlights the impact of the use in terms of disturbance through extra traffic at the site, from staff working to visiting customers.
6. Vicarage Road is a single-carriage, two-way road with mainly unrestricted parking on either side. Most houses have no off-street parking within their curtilage and consequently demand for on-street parking is likely to be high, and the availability of parking spaces limited, as I saw during my site visit. The narrow width of the road, with cars parked either side, makes manoeuvring within the street difficult. Furthermore, manoeuvring space within the appeal site is also limited and likely to be restricted because of the number of staff vehicles and customers' vehicles parked, either waiting for repair work or collection, within the front forecourt parking area.
7. Although the appellant states that the business uses only its own on-site parking, it is noted by both the Council and from representations from a neighbour that vehicles associated with the garage have, at times, been parked along streets in the vicinity. Furthermore, the photographs provided show vehicles being delivered to the site, for repair, on large transporters. The appellant also provides that the business caters for large vans and cites DPD and FedEx as customers.
8. The cumulative effect of the vehicle repairs and the amount and type of traffic generated by the use would be unacceptable in terms of levels of noise and disturbance to occupants within the nearby residential streets. This would be over and above that which would be considered normal for this type of environment. Whilst I have no doubt that the business is well regarded by some, this does not persuade me other than that the use of the site for vehicle repairs is unneighbourly due to its unacceptable impacts on the living conditions of local residents, some of whom live in close proximity of the site.
9. Consequently, the use of the site for vehicle repairs is considered to be an incompatible use in this location. Policy D2 of the Dudley Borough Development Strategy (February 2017) aims to protect the occupiers of existing buildings from uses that are considered incompatible with the surrounding uses. In this situation, the amenity of existing occupants is likely to be detrimentally harmed as a result of the impact of environmental factors brought about by the use of the land for vehicle repairs, mainly through noise and general disturbance.

Conclusion

10. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

S A Hanson

INSPECTOR